

IP 00-0014-CR 1 H/F US v Lemmons
Judge David F. Hamilton

Signed on 11/2/05

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES OF AMERICA,
Plaintiff,

v.

SHELBY LEMMONS,
Defendant.

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CAUSE NO. IP 00-14-CR-1 H/F

On March 14, 2005, the court considered defendant Shelby Lemmons' attempt to secure a new sentence under the approach of *United States v. Booker*, 125 S. Ct. 738 (2005), which held that the Sentencing Guidelines must be treated as advisory rather than as legally binding rules. The court treated Lemmons' filing as a petition under 28 U.S.C. § 2255 and entered a final judgment dismissing the petition, which occurred in Cause No. 1:05-cv-0360.

After that date, the United States filed a response in this criminal case, and Lemmons filed a final reply on April 15, 2005. Lemmons' reply did not provide any substantive rebuttal to the reasoning and precedents the court relied upon to deny relief under § 2255, as set forth in the entry of March 14, 2005. So that there is no misunderstanding, however, the court states in this criminal case that any pending request for relief from Lemmons' sentence is hereby denied.

So ordered.

Date: November 2, 2005

DAVID F. HAMILTON, JUDGE
United States District Court
Southern District of Indiana

Copies to:

Gayle Helart
OFFICE OF THE UNITED STATES ATTORNEY
10 West Market Street, Suite 2100
Indianapolis, Indiana 46204-3048

Robert G. Levitt
600 17th Street
Suite 2800 South
Denver, Colorado 80202